

## 2009 DRAFTING REQUEST

### Bill

Received: **12/29/2008**

Received By: **jkuesel**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget 6-5051**

By/Representing: **Thornton**

This file may be shown to any legislator: **NO**

Drafter: **jkuesel**

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### Pre Topic:

DOA:.....Thornton, BB0316 -

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### Topic:

State building construction procedures

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### Instructions:

Per attached, 12/26/08.

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### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkuesel 01/03/2009	bkraft 01/06/2009					State
/1			phenry 01/06/2009		mbarman 01/06/2009		State
/2	jkuesel 01/15/2009	bkraft 01/16/2009	rschluet 01/16/2009		sbasford 01/16/2009		State
/3	jkuesel 01/27/2009	bkraft 01/27/2009	rschluet 01/27/2009		mbarman 01/27/2009		State
/4	jkuesel 01/27/2009	bkraft 01/27/2009	phenry 01/28/2009		sbasford 01/28/2009		State

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/5	jkuesel 01/30/2009	csicilia 01/30/2009	phenry 01/30/2009		cduerst 01/31/2009		State
/6	jkuesel 02/04/2009	bkraft 02/04/2009	jfrantze 02/04/2009		cduerst 02/04/2009		State
/7	jkuesel 02/09/2009	bkraft 02/09/2009	mduchek 02/09/2009		lparisi 02/09/2009		State
/8	jkuesel 02/10/2009	bkraft 02/10/2009	mduchek 02/10/2009		lparisi 02/10/2009		

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*2/10/09*

*18 bjk 2/10*

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*2/10*

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2/9

NOTE on 6

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*86 2/4 Self 2/4/09*

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16 jkuesel  
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&lt;END&gt;



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/4	jkuesel 01/27/2009	bkraft 01/27/2009	phenry 01/28/2009	1/30	sbasford 01/28/2009		
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Vers.      Drafted      Reviewed      Typed      Proofed      Submitted      Jacketed      Required

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1/4 jkuesel  
FE Sent For: 1/27/09

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/1	jkuesel 1/15/09	26jk/16	pherry 01/06/2009		mbarman 01/06/2009		

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NOTE

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1/1	jkuesel 1/3/09	1bjk 1/6	1/6 ph	1/6 ph/ks			

FE Sent For:

**<END>**

## 2009-11 Budget Bill Statutory Language Drafting Request

- Topic: Streamline and Improve Building Program Processes
- Tracking Code: BB0316
- SBO team: State Government Operations
- SBO analyst: Scott B. Thornton
  - Phone: 266-5051
  - Email: Scott.Thornton@WI.gov
- Agency acronym: BC
- Agency number: 867
- Priority (Low, Medium, High): High

Intent: To streamline and improve State Building Program processes.

✓ Add language to override Admin rule 20.02 (7) Definitions concerning "Selection Committee." Eliminate "standing" from the definition to allow more than one committee.

Add language to override Admin rule 20.04 which would allow the DOA or BC Secretary to waive the interview process for projects in excess of \$5 million when it is determined to be in the best interests of the state.

✓ Change 13.48 (10) to increase the threshold to \$250,000.

✓ Change 13.48 (29) to increase the threshold to \$500,000.

✓ Change 16.855 (2) to increase the department's authority to accept solicited bids (quotes received from at least three firms, no public posting) for projects up to \$100,000.

- ✓ Change 16.855 (10) to amend the section to allow the taking of proprietary bids from more than one vendor.
- ✓ Change 16.855 (13) to amend the section to allow DOA/DSF to require prime contractors submit their list of subcontractors.
- ✓ Change 16.87 (3) to allow the Governor to delegate his signature authority for all construction contracts and change orders to the Secretary of DOA or the Secretary's designee.



Date (time)  
needed

DO NOT  
SOON

LRB- 1276, 1

# DOA BUDGET DRAFT

JTC:bjk:

Use the appropriate components and routines developed for bills.

>>FOR BUDGET — NOT READY FOR INTRODUCTION<<

AN ACT . . . [DO NOT generate catalog]; relating to: the budget state  
building construction procedures

## *Analysis by the Legislative Reference Bureau*

If titles are needed in the analysis, in the component bar:

For the main heading, execute: . . . . . create → anal: → title: → head

For the subheading, execute: . . . . . create → anal: → title: → sub

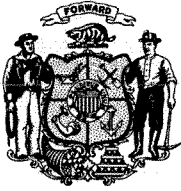
For the sub-subheading, execute: . . . . . create → anal: → title: → sub-sub

For the analysis text, in the component bar:

For the text paragraph, execute: . . . . . create → anal: → text

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION #.



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-1276/1

JTK:.....

6 Lbjk

DOA:.....Thornton, BB0316 - State building construction procedures

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

D-note

SAV  
X-ref v

do not gen.

1

AN ACT ...; relating to: state building construction procedures.?

*Analysis by the Legislative Reference Bureau*

**STATE GOVERNMENT**

**STATE BUILDING PROGRAM**

This bill makes various changes in state building construction procedures.

Currently, with certain exceptions, no state board, agency, officer, department, commission, or body corporate may enter into a construction contract for any state building, structure, or facility if the project involves an estimated cost of more than \$150,000, without review and approval of the project by the Building Commission. This bill changes this requirement to apply only to projects having an estimated cost of more than \$250,000.

Currently, with certain exceptions, contracts for work to be performed on projects that require review and approval by the Building Commission must be let by bid preceded by public notice and must be awarded to the lowest responsible bidder, and are subject to minority-owned business participation goals and certain other requirements. This bill applies these requirements only to projects having an estimated cost of \$500,000 or more.

Currently, with certain exceptions, if a project has an estimated cost of more than \$40,000, contracts for work to be performed on the project must be let by sealed bid preceded by public notice which must contain specified information and the bids must be opened publicly. This bill applies ~~this requirement~~ only to a project that has an estimated cost of more than \$100,000.

other specific bidding requirements

and must include a bid guarantee

retains the requirement for letting these contracts to the lowest responsible bidder, but

Currently, when DOA believes that it is in the best interests of the state to contract for certain proprietary articles or materials available from only one source, it may contract for the articles or materials without solicitation of bids or compliance with other statutory requirements after publishing a single notice of its intention to let the contract in the official state newspaper. This bill modifies this procedure to apply to specified proprietary articles or materials regardless of whether they are obtainable from only one source, but requires solicitation of bids when the procedure is used.

Currently, with certain exceptions, a bidder on a contract for a state project need not submit with its bid a list of the subcontractors to be used on the project, but DOA may require a list of the subcontractors to be submitted before the contract is awarded. This bill permits DOA to require each bidder on a state project to submit with its bid a list of its subcontractors to be used on the project.

Currently, with certain exceptions, if a contract for a state project or a change order to such a contract involves an expenditure of more than \$60,000, the contract is subject to the governor's approval, but the governor may delegate his or her authority to approve a contract or change order involving an expenditure of less than \$150,000 to the secretary of administration or the secretary's designee. This bill permits the governor to delegate his or her authority to approve a contract or change order involving an expenditure of any amount to the secretary of administration or the secretary's designee.

Currently, with certain exceptions, DOA has the responsibility to take charge of and supervise all engineering and architectural services for state projects. This bill provides that, with certain exceptions, for the purpose of selection of an appropriate engineer or architect for each state project, DOA shall appoint one or more selection committees. The bill also requires that for each project having an estimated cost of \$5,000,000 or more, the selection committee shall interview each candidate for appointment as an engineer or architect, except that the secretary of administration or the secretary to the Building Commission may waive this requirement when he or she determines that is in the best interests of the state to do so.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

X

**SECTION 1.** 13.48 (2) (a) of the statutes is amended to read:

13.48 (2) (a) There is created a building commission consisting of the governor, who shall serve as chairperson, and 3 senators and 3 representatives to the assembly appointed as are the members of standing committees in their respective houses. The 2 major political parties shall be represented in the membership from each

1 house. One legislator from each house shall be a member of the state supported  
2 programs study and advisory committee created by s. 13.47. One citizen member  
3 shall be appointed by the governor to serve at the governor's pleasure. The secretary,  
4 head of the engineering function, and ranking architect of the department of  
5 administration shall be nonvoting advisory members. The secretary of  
6 administration shall designate an employee of the department of administration to  
7 serve as secretary to the building commission. The building commission shall bear  
8 a title beginning with the words "State of Wisconsin". The members shall be liable  
9 only for misconduct. Nonlegislator members of the building commission shall be  
10 reimbursed for actual and necessary expenses, incurred as members of the building  
11 commission, from the appropriation under s. 20.505.

**History:** 1971 c. 125; 1973 c. 90; 1973 c. 243 s. 82; 1973 c. 335 s. 13; 1975 c. 39, 40, 198, 199; 1977 c. 26; 1977 c. 29 ss. 7, 8r, 1654 (8) (c); 1977 c. 325; 1977 c. 418 ss. 5, 5m, 924 (18) (c); 1979 c. 34, 221, 350; 1981 c. 341; 1983 a. 27 ss. 11 to 12n, 2202 (5); 1983 a. 36 ss. 18 to 20, 96 (3); 1983 a. 207; 1985 a. 29, 120; 1987 a. 27, 186, 395, 399; 1989 a. 31, 366; 1991 a. 39, 269, 315; 1993 a. 16, 268, 414; 1995 a. 27, 216, 225, 227; 1997 a. 5, 27, 35, 237; 1999 a. 9; 1999 a. 150 s. 672; 1999 a. 197; 2001 a. 16, 103; 2003 a. 33 ss. 25 to 26i, 9160; 2003 a. 91; 2005 a. 25, 253, 391; 2007 a. 20.

12 **SECTION 2.** 13.48 (10) (a) of the statutes is amended to read:

13 13.48 (10) (a) No state board, agency, officer, department, commission or body  
14 corporate may enter into a contract for the construction, reconstruction, remodeling  
15 of or addition to any building, structure, or facility, in connection with any building  
16 project which involves a cost in excess of \$150,000 \$250,000 without completion of  
17 final plans and arrangement for supervision of construction and prior approval by  
18 the building commission. The building commission may not approve a contract for  
19 the construction, reconstruction, renovation or remodeling of or an addition to a state  
20 building as defined in s. 44.51 (2) unless it determines that s. 44.57 has been complied  
21 with or does not apply. This section applies to the department of transportation only  
22 in respect to buildings, structures and facilities to be used for administrative or

operating functions, including buildings, land and equipment to be used for the motor vehicle emission inspection and maintenance program under s. 110.20.

**History:** 1971 c. 125; 1973 c. 90; 1973 c. 243 s. 82; 1973 c. 335 s. 13; 1975 c. 39, 40, 198, 199; 1977 c. 26; 1977 c. 29 ss. 7, 8r, 1654 (8) (c); 1977 c. 325; 1977 c. 418 ss. 5, 5m, 924 (18) (c); 1979 c. 34, 221, 350; 1981 c. 341; 1983 a. 27 ss. 11 to 12n, 2202 (5); 1983 a. 36 ss. 18 to 20, 96 (3); 1983 a. 207; 1985 a. 29, 120; 1987 a. 27, 186, 395, 399; 1989 a. 31, 366; 1991 a. 39, 269, 315; 1993 a. 16, 288, 414; 1995 a. 27, 216, 225, 227; 1997 a. 5, 27, 35, 237; 1999 a. 9; 1999 a. 150 s. 672; 1999 a. 197; 2001 a. 16, 103; 2003 a. 33 ss. 25 to 26i, 9160; 2003 a. 91; 2005 a. 25, 253, 391; 2007 a. 20.

**SECTION 3.** 13.48 (29) of the statutes is amended to read:

13.48 (29) SMALL PROJECTS. Except as otherwise required under s. 16.855 (10m), the building commission may prescribe simplified policies and procedures to be used in lieu of the procedures provided in s. 16.855 for any project that does not require prior approval of the building commission under sub. (10) (a) having an estimated cost that does not exceed \$500,000.

**History:** 1971 c. 125; 1973 c. 90; 1973 c. 243 s. 82; 1973 c. 335 s. 13; 1975 c. 39, 40, 198, 199; 1977 c. 26; 1977 c. 29 ss. 7, 8r, 1654 (8) (c); 1977 c. 325; 1977 c. 418 ss. 5, 5m, 924 (18) (c); 1979 c. 34, 221, 350; 1981 c. 341; 1983 a. 27 ss. 11 to 12n, 2202 (5); 1983 a. 36 ss. 18 to 20, 96 (3); 1983 a. 207; 1985 a. 29, 120; 1987 a. 27, 186, 395, 399; 1989 a. 31, 366; 1991 a. 39, 269, 315; 1993 a. 16, 288, 414; 1995 a. 27, 216, 225, 227; 1997 a. 5, 27, 35, 237; 1999 a. 9; 1999 a. 150 s. 672; 1999 a. 197; 2001 a. 16, 103; 2003 a. 33 ss. 25 to 26i, 9160; 2003 a. 91; 2005 a. 25, 253, 391; 2007 a. 20.

**SECTION 4.** 16.85 (1) of the statutes is amended to read:

16.85 (1) To take charge of and supervise all engineering or architectural services or construction work as defined in s. 16.87 performed by, or for, the state, or any department, board, institution, commission or officer thereof, including nonprofit-sharing corporations organized for the purpose of assisting the state in the construction and acquisition of new buildings or improvements and additions to existing buildings as contemplated under ss. 13.488, 36.09 and 36.11, except the engineering, architectural and construction work of the department of transportation, the engineering service performed by the department of commerce, department of revenue, public service commission, department of health services and other departments, boards and commissions when the service is not related to the maintenance, and construction and planning of the physical properties of the state. <sup>plain space</sup> For the purpose of selection of an appropriate engineer or architect for each construction project under the department's supervision, except an emergency

1 project approved under s. 16.855 (16) (b) 2., the secretary shall appoint one or more  
2 selection committees. If the estimated cost of a project is \$5,000,000 or more, the  
3 selection committee shall interview each candidate for appointment as an engineer  
4 or architect for the project, except that the secretary of administration or the  
5 secretary to the building commission may waive this requirement when he or she  
6 determines that it is in the best interests of the state to do so. The department shall  
7 not authorize construction work for any state office facility in the city of Madison  
8 after May 11, 1990, unless the department first provides suitable space for a day care  
9 center primarily for use by children of state employees.

**History:** 1971 c. 42; 1973 c. 90; 1973 c. 335 s. 13; 1977 c. 29 s. 1654 (8) (c); 1979 c. 221; 1983 a. 36 s. 96 (4); 1985 a. 29; 1987 a. 142, 399; 1989 a. 31, 336; 1991 a. 39, 269, 316; 1993 a. 263; 1995 a. 27 ss. 398 to 400, 911 (5), 9126 (19), 9130 (4); 1997 a. 27; 1999 a. 197; 2001 a. 16; 2005 a. 74, 149, 335; 2007 a. 20 ss. 115b, 9121 (6) (a); 2007 a. 97.

10 **SECTION 5.** 16.855 (2) (intro.) of the statutes is amended to read:

11 16.855 (2) (intro.) Except for projects authorized under s. 16.858, whenever the  
12 estimated construction cost of a project exceeds ~~\$40,000~~ \$100,000, or if less and in  
13 the best interest of the state, the department shall:

**History:** 1971 c. 125; 1973 c. 47; 1975 c. 39, 199, 390; 1977 c. 418; 1979 c. 34; 1981 c. 20; 1983 a. 27 ss. 104g to 105, 2202 (1); 1983 a. 390 s. 6; 1985 a. 29; 1985 a. 332 s. 251 (1); 1987 a. 27, 292; 1989 a. 31; 1991 a. 39, 316; 1995 a. 27 ss. 400p, 9126 (19); 1995 a. 227; 1997 a. 27, 306; 1999 a. 150 s. 672; 1999 a. 197; 2001 a. 103; 2003 a. 33, 157; 2005 a. 141, 391; 2007 a. 20 s. 9121 (6) (a).

14 **SECTION 6.** 16.855 (10) of the statutes is amended to read:

15 16.855 (10) When the department believes that it is in the best interests of the  
16 state to contract for ~~certain~~ specified proprietary articles or materials available from  
17 ~~only one source~~, it may contract for said articles or materials ~~without~~ upon  
18 solicitation of bids apart from the usual statutory procedure, after a publication of  
19 a class 1 notice, under ch. 985, in the official state newspaper.

**History:** 1971 c. 125; 1973 c. 47; 1975 c. 39, 199, 390; 1977 c. 418; 1979 c. 34; 1981 c. 20; 1983 a. 27 ss. 104g to 105, 2202 (1); 1983 a. 390 s. 6; 1985 a. 29; 1985 a. 332 s. 251 (1); 1987 a. 27, 292; 1989 a. 31; 1991 a. 39, 316; 1995 a. 27 ss. 400p, 9126 (19); 1995 a. 227; 1997 a. 27, 306; 1999 a. 150 s. 672; 1999 a. 197; 2001 a. 103; 2003 a. 33, 157; 2005 a. 141, 391; 2007 a. 20 s. 9121 (6) (a).

20 **SECTION 7.** 16.855 (13) (a) of the statutes is amended to read:

21 16.855 (13) (a) A. The department may require each person who submits a bid  
22 to provide a list of the subcontractors shall not be required to be submitted for work

plain  
space

1 to be performed with the its bid. The department may also require the each prime  
2 contractor to submit in writing the names of prospective subcontractors for the  
3 department's approval before the award of a contract to the prime contractor.

History: 1971 c. 125; 1973 c. 47; 1975 c. 39, 199, 390; 1977 c. 418; 1979 c. 34; 1981 c. 20; 1983 a. 27 ss. 104g to 105, 2202 (1); 1983 a. 390 s. 6; 1985 a. 29; 1985 a. 332 s. 251 (1); 1987 a. 27, 292; 1989 a. 31; 1991 a. 39, 316; 1995 a. 27 ss. 400p, 9126 (19); 1995 a. 227; 1997 a. 27, 306; 1999 a. 150 s. 672; 1999 a. 197; 2001 a. 103; 2003 a. 33, 157; 2005 a. 141, 391; 2007 a. 20 s. 9121 (6) (a).

4 **SECTION 8.** 16.855 (22) of the statutes is amended to read:

5 16.855 (22) The provisions of this section, except sub. (10m), do not apply to  
6 construction work for any project that does not require the prior approval of the  
7 building commission under s. 13.48 (10) (a) if the project is constructed in accordance  
8 with policies and procedures prescribed by the building commission under s. 13.48  
9 (29). If the estimated construction cost of any project is at least \$40,000 \$100,000,  
10 and the building commission elects to utilize the procedures prescribed under s.  
11 13.48 (29) to construct the project, the department shall provide adequate public  
12 notice of the project and the procedures to be utilized to construct the project on a  
13 publicly accessible computer site.

History: 1971 c. 125; 1973 c. 47; 1975 c. 39, 199, 390; 1977 c. 418; 1979 c. 34; 1981 c. 20; 1983 a. 27 ss. 104g to 105, 2202 (1); 1983 a. 390 s. 6; 1985 a. 29; 1985 a. 332 s. 251 (1); 1987 a. 27, 292; 1989 a. 31; 1991 a. 39, 316; 1995 a. 27 ss. 400p, 9126 (19); 1995 a. 227; 1997 a. 27, 306; 1999 a. 150 s. 672; 1999 a. 197; 2001 a. 103; 2003 a. 33, 157; 2005 a. 141, 391; 2007 a. 20 s. 9121 (6) (a).

14 **SECTION 9.** 16.87 (3) of the statutes is amended to read:

15 16.87 (3) Except as provided in sub. (4) and this subsection, a contract under  
16 sub. (2) is not valid or effectual for any purpose until it is endorsed in writing and  
17 approved by the secretary or the secretary's designated assistant and, if the contract  
18 involves an expenditure over \$60,000, approved by the governor. The governor may  
19 delegate the authority to approve any contract requiring his or her approval under  
20 this subsection ~~that involves an expenditure of less than \$150,000~~ to the secretary  
21 or the secretary's designee. Except as provided in sub. (4), no payment or  
22 compensation for work done under any contract involving \$2,500 or more, except a  
23 highway contract, may be made unless the written claim is audited and approved by

1 the secretary or the secretary's designee. Any change order to a contract requiring  
2 approval under this subsection requires the prior approval by the secretary or the  
3 secretary's designated assistant and, if the change order involves an expenditure  
4 over \$60,000, the approval of the governor ~~or, if, unless~~ the governor delegates his  
5 or her authority to approve contracts under this subsection ~~and the change order~~  
6 involves an expenditure of less than \$150,000, the approval of <sup>plain space</sup> ~~to~~ the secretary or the  
7 secretary's designee.

History: 1973 c. 90; 1975 c. 39, 199; 1977 c. 418; 1979 c. 221 ss. 68, 81, 82; 1983 a. 27; 1983 a. 390 s. 6; 1985 a. 29 s. 3202 (1); 1989 a. 31; 1991 a. 39; 1995 a. 227; 1999 a. 197; 2001 a. 16; 2005 a. 391.

8 **SECTION 9301. Initial applicability; administration?**

9 (1) <sup>see</sup> The treatment of sections 16.85 (1), 16.855 (2) (intro.), (10), (13) (a), and  
10 (22), and 16.87 (3) of the statutes first applies with respect to contracts and change  
11 orders for services or construction work entered into on the effective date of this  
12 subsection.

13 **SECTION 9306. Initial applicability; building commission?**

14 (1) <sup>see</sup> The treatment of section 13.48 (10) (a) and (29) of the statutes first applies  
15 with respect to contracts entered into on the effective date of this subsection.

16 (END)

D-note



**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1276/1dn

JTK:.....

g l bjk

Date

Scott Thornton:

> Per your instructions, this draft applies the specific bidding requirements in s. 16.855  
> (2), stats, only to projects having an estimated cost of more than \$100,000. The draft,  
> however, *retains* the bidding requirement in s. 16.855 (1), stats, for projects having an  
estimated cost of more than \$40,000. Please advise if this is not consistent with your  
intent.

Jeffery T. Kuesel  
Managing Attorney  
Phone: (608) 266-6778

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1276/1dn  
JTK:bjk:ph

Scott Thornton:

Per your instructions, this draft applies the specific bidding requirements in s. 16.855 (2), stats., January 6, 2009 only to projects having an estimated cost of more than \$100,000. The draft, however, *retains* the bidding requirement in s. 16.855 (1), stats., for projects having an estimated cost of more than \$40,000. Please advise if this is not consistent with your intent.

Jeffery T. Kuesel  
Managing Attorney  
Phone: (608) 266-6778

**Kuesel, Jeffery**

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**To:** Thornton, Scott - DOA

**Subject:** RE: LRB Draft: 09-1276/1 State building construction procedures

Scott,

This will confirm I now have your redraft instructions and will start working on them today.

Jeff

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**From:** Thornton, Scott - DOA [mailto:scott.thornton@wisconsin.gov]

**Sent:** Wednesday, January 14, 2009 10:06 AM

**To:** Kuesel, Jeffery

**Subject:** FW: LRB Draft: 09-1276/1 State building construction procedures

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**From:** Thornton, Scott - DOA

**Sent:** Friday, January 09, 2009 9:18 AM

**To:** 'Henry, Patty'

**Subject:** RE: LRB Draft: 09-1276/1 State building construction procedures

Hi Patty -

I have a couple of additional items related to this draft. Please also include the following:

- Provide an exemption to the enumeration requirement for any project greater than \$500,000 so that projects funded by federal funds, or a combination of federal and gifts/grants could be enumerated by action of the BC with a passive review of the JCF. This could be helpful to speed action on larger projects (e.g. UW-Madison Biofuels)
- Allow the Secretary of the Building Commission to waive s. 16.855 for projects less than \$5 M. This would allow the Secretary to waive statutes that require multiple prime bidding to allow for more rapid project delivery using Single Prime contracting.

Thanks,

Scott

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**From:** Henry, Patty [mailto:Patty.Henry@legis.wisconsin.gov]

**Sent:** Tuesday, January 06, 2009 2:36 PM

**To:** Thornton, Scott - DOA

**Cc:** Hanaman, Cathlene - LEGIS; Beadles, Kathleen - DOA

**Subject:** LRB Draft: 09-1276/1 State building construction procedures

*Following is the PDF version of draft 09-1276/1.*

01/14/2009



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-1276/12

JTK:bjk:ph

Lstays

wanted Fri 1/16

DOA:.....Thornton, BB0316 - State building construction procedures

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

SAV  
XREF

Inserts

do not gen.

1 AN ACT ...; relating to: state building construction procedures.

*Analysis by the Legislative Reference Bureau*

**STATE GOVERNMENT**

**STATE BUILDING PROGRAM**

This bill makes various changes in state building construction procedures.

Currently, with certain exceptions, no state board, agency, officer, department, commission, or body corporate may enter into a construction contract for any state building, structure, or facility if the project involves an estimated cost of more than \$150,000, without review and approval of the project by the Building Commission. This bill changes this requirement to apply only to projects having an estimated cost of more than \$250,000.

ANS  
A

Currently, with certain exceptions, contracts for work to be performed on projects that require review and approval by the Building Commission must be let by bid preceded by public notice and must be awarded to the lowest responsible bidder, and are subject to minority-owned business participation goals and certain other requirements. This bill applies these requirements only to projects having an estimated cost of \$500,000 or more.

Currently, with certain exceptions, if a project has an estimated cost of more than \$40,000, contracts for work to be performed on the project must be let by sealed bid preceded by public notice which must contain specified information and the bids must be opened publicly and must include a bid guarantee. This bill retains the requirement for letting these contracts to the lowest responsible bidder, but applies

other specific bidding requirements only to a project that has an estimated cost of more than \$100,000.

Currently, when DOA believes that it is in the best interests of the state to contract for certain proprietary articles or materials available from only one source, it may contract for the articles or materials without solicitation of bids or compliance with other statutory requirements after publishing a single notice of its intention to let the contract in the official state newspaper. This bill modifies this procedure to apply to specified proprietary articles or materials regardless of whether they are obtainable from only one source, but requires solicitation of bids when the procedure is used.

Currently, with certain exceptions, a bidder on a contract for a state project need not submit with its bid a list of the subcontractors to be used on the project, but DOA may require a list of the subcontractors to be submitted before the contract is awarded. This bill permits DOA to require each bidder on a state project to submit with its bid a list of its subcontractors to be used on the project.

Currently, with certain exceptions, if a contract for a state project or a change order to such a contract involves an expenditure of more than \$60,000, the contract is subject to the governor's approval, but the governor may delegate his or her authority to approve a contract or change order involving an expenditure of less than \$150,000 to the secretary of administration or the secretary's designee. This bill permits the governor to delegate his or her authority to approve a contract or change order involving an expenditure of any amount to the secretary of administration or the secretary's designee.

Currently, with certain exceptions, DOA has the responsibility to take charge of and supervise all engineering and architectural services for state projects. This bill provides that, with certain exceptions, for the purpose of selection of an appropriate engineer or architect for each state project, DOA shall appoint one or more selection committees. The bill also requires that for each project having an estimated cost of \$5,000,000 or more, the selection committee shall interview each candidate for appointment as an engineer or architect, except that the secretary of administration or the secretary to the Building Commission may waive this requirement when he or she determines that is in the best interests of the state to do so.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

- 1            **SECTION 1.** 13.48 (2) (a) of the statutes is amended to read:
- 2            13.48 (2) (a) There is created a building commission consisting of the governor,
- 3            who shall serve as chairperson, and 3 senators and 3 representatives to the assembly

1 appointed as are the members of standing committees in their respective houses.  
2 The 2 major political parties shall be represented in the membership from each  
3 house. One legislator from each house shall be a member of the state supported  
4 programs study and advisory committee created by s. 13.47. One citizen member  
5 shall be appointed by the governor to serve at the governor's pleasure. The secretary,  
6 head of the engineering function, and ranking architect of the department of  
7 administration shall be nonvoting advisory members. The secretary of  
8 administration shall designate an employee of the department of administration to  
9 serve as secretary to the building commission. The building commission shall bear  
10 a title beginning with the words "State of Wisconsin". The members shall be liable  
11 only for misconduct. Nonlegislator members of the building commission shall be  
12 reimbursed for actual and necessary expenses, incurred as members of the building  
13 commission, from the appropriation under s. 20.505.

14 **SECTION 2.** 13.48 (10) (a) of the statutes is amended to read:

15 13.48 (10) (a) No state board, agency, officer, department, commission or body  
16 corporate may enter into a contract for the construction, reconstruction, remodeling  
17 of or addition to any building, structure, or facility, in connection with any building  
18 project which involves a cost in excess of ~~\$150,000~~ \$250,000 without completion of  
19 final plans and arrangement for supervision of construction and prior approval by  
20 the building commission. The building commission may not approve a contract for  
21 the construction, reconstruction, renovation or remodeling of or an addition to a state  
22 building as defined in s. 44.51 (2) unless it determines that s. 44.57 has been complied  
23 with or does not apply. This section applies to the department of transportation only  
24 in respect to buildings, structures and facilities to be used for administrative or

operating functions, including buildings, land and equipment to be used for the motor vehicle emission inspection and maintenance program under s. 110.20.

**SECTION 3.** 13.48 (29) of the statutes is amended to read:

13.48 (29) SMALL PROJECTS. Except as otherwise required under s. 16.855 (10m), the building commission may prescribe simplified policies and procedures to be used in lieu of the procedures provided in s. 16.855 for any project ~~that does not require prior approval of the building commission under sub. (10) (a)~~ having an estimated cost that does not exceed \$500,000.

**SECTION 4.** 16.85 (1) of the statutes is amended to read:

16.85 (1) To take charge of and supervise all engineering or architectural services or construction work as defined in s. 16.87 performed by, or for, the state, or any department, board, institution, commission or officer thereof, including nonprofit-sharing corporations organized for the purpose of assisting the state in the construction and acquisition of new buildings or improvements and additions to existing buildings as contemplated under ss. 13.488, 36.09 and 36.11, except the engineering, architectural and construction work of the department of transportation, the engineering service performed by the department of commerce, department of revenue, public service commission, department of health services and other departments, boards and commissions when the service is not related to the maintenance, and construction and planning of the physical properties of the state. For the purpose of selection of an appropriate engineer or architect for each construction project under the department's supervision, except an emergency project approved under s. 16.855 (16) (b) 2., the secretary shall appoint one or more selection committees. If the estimated cost of a project is \$5,000,000 or more, the selection committee shall interview each candidate for appointment as an engineer

1 or architect for the project, except that the secretary of administration or the  
2 secretary to the building commission may waive this requirement when he or she  
3 determines that it is in the best interests of the state to do so. The department shall  
4 not authorize construction work for any state office facility in the city of Madison  
5 after May 11, 1990, unless the department first provides suitable space for a day care  
6 center primarily for use by children of state employees.

7 **SECTION 5.** 16.855 (2) (intro.) of the statutes is amended to read:

8 16.855 (2) (intro.) Except for projects authorized under s. 16.858, whenever the  
9 estimated construction cost of a project exceeds \$40,000 \$100,000, or if less and in  
10 the best interest of the state, the department shall:

11 **SECTION 6.** 16.855 (10) of the statutes is amended to read:

12 16.855 (10) When the department believes that it is in the best interests of the  
13 state to contract for certain specified proprietary articles or materials available from  
14 ~~only one source~~, it may contract for said articles or materials ~~without~~ upon  
15 solicitation of bids apart from the usual statutory procedure, after a publication of  
16 a class 1 notice, under ch. 985, in the official state newspaper.

17 **SECTION 7.** 16.855 (13) (a) of the statutes is amended to read:

18 16.855 (13) (a) ~~A~~ The department may require each person who submits a bid  
19 to provide a list of the subcontractors shall not be required to be submitted for work  
20 to be performed with the its bid. The department may also require ~~the~~ each prime  
21 contractor to submit in writing the names of prospective subcontractors for the  
22 department's approval before the award of a contract to the prime contractor.

23 **SECTION 8.** 16.855 (22) of the statutes is amended to read:

24 16.855 (22) The provisions of this section, except sub. (10m), do not apply to  
25 construction work for any project that does not require the prior approval of the



1 building commission under s. 13.48 (10) (a) if the project is constructed in accordance  
2 with policies and procedures prescribed by the building commission under s. 13.48  
3 (29). If the estimated construction cost of any project is at least ~~\$40,000~~ \$100,000,  
4 and the building commission elects to utilize the procedures prescribed under s.  
5 13.48 (29) to construct the project, the department shall provide adequate public  
6 notice of the project and the procedures to be utilized to construct the project on a  
7 publicly accessible computer site.

8 **SECTION 9.** 16.87 (3) of the statutes is amended to read:

9 16.87 (3) Except as provided in sub. (4) and this subsection, a contract under  
10 sub. (2) is not valid or effectual for any purpose until it is endorsed in writing and  
11 approved by the secretary or the secretary's designated assistant and, if the contract  
12 involves an expenditure over \$60,000, approved by the governor. The governor may  
13 delegate the authority to approve any contract requiring his or her approval under  
14 this subsection ~~that involves an expenditure of less than \$150,000~~ to the secretary  
15 or the secretary's designee. Except as provided in sub. (4), no payment or  
16 compensation for work done under any contract involving \$2,500 or more, except a  
17 highway contract, may be made unless the written claim is audited and approved by  
18 the secretary or the secretary's designee. Any change order to a contract requiring  
19 approval under this subsection requires the prior approval by the secretary or the  
20 secretary's designated assistant and, if the change order involves an expenditure  
21 over \$60,000, the approval of the governor ~~or, if, unless~~ the governor delegates his  
22 or her authority to approve contracts under this subsection ~~and the change order~~  
23 ~~involves an expenditure of less than \$150,000, the approval of~~ to the secretary or the  
24 secretary's designee.

6 2524 **SECTION 9301. Initial applicability; Administration.**

*STATE BUILDING CONSTRUCTION PROCEDURES.*

1 (1) The treatment of sections 16.85 (1), 16.855 (2) (intro.), (10), (13) (a), and (22),  
2 and 16.87 (3) of the statutes first applies with respect to contracts and change orders  
3 for services or construction work entered into on the effective date of this subsection.

**SECTION 9306. Initial applicability; Building Commission.**

5 (1) The treatment of section 13.48 (10) (a) and (29) of the statutes first applies  
6 with respect to contracts entered into on the effective date of this subsection.

7 (END)

**2009-2010 DRAFTING INSERT**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1276/2ins

JTK:.....

*gjk*

INS A:

Currently, with certain exceptions, the Building Commission is prohibited from authorizing the design, construction, repair, remodeling, or improvement of any state building, structure, or facility, or the acquisition of land for that purpose, for any project costing more than \$500,000, regardless of funding source, unless the project is enumerated by law in the Authorized State Building Program. This bill provides that this enumeration requirement does not apply to any proposed project that is funded entirely with federal funds or gifts, grants, or bequests, if the Building

- Commission submits the proposed project for review and approval of JCF. Under the bill, if JCF schedules a meeting to review a proposed project within 14 working days of its submittal, the project remains subject to the enumeration requirement unless
- JCF approves the project or modifies and approves the project. If JCF modifies and approves the project, the project is not subject to the enumeration requirement if the Building Commission approves the project as modified.

Currently, with certain exceptions, contracts for construction work on state construction projects that cost more than \$40,000 must be let by contract to the lowest responsible bidder and must be preceded by public notice and a public

- building process. Wisconsin-based bidders are accorded a preference over bidders whose home governments grant them a preference in making governmental
- purchases. DOA must attempt to ensure that 5% of the total amount expended for
- construction work in each fiscal year is awarded to minority-owned businesses. With certain exceptions, DOA must take separate bids on each portion of the work that
- DOA designates. Contractors must be granted certain progress payments while a
- project is underway. This bill permits the secretary of the Building Commission to waive any of these requirements for any project the cost of which is less than \$5,000,000.

INS 4-2:

X

**SECTION 1.** 13.48 (19m) of the statutes is created to read:

**13.48 (19m) WAIVER OF CONSTRUCTION PROJECT CONTRACT REQUIREMENTS.** The secretary of the building commission may waive compliance with any requirement under s. 16.855 for any project the estimated cost of which is less than \$5,000,000.

INS 6-24:

✓  
**SECTION 2.** 20.924 (3m) of the statutes is created to read:

> 20.924 (3m) Δ Subsection (1) (a) and (b) does not apply to the design, construction, repair, remodeling, or improvement of any building, structure, or facility, or the acquisition of land for that purpose, if the project is funded entirely with federal funds or gifts, grants, or bequests, or a combination thereof, and the building commission submits the proposed project to the joint committee on finance for its review. Δ If the cochairpersons of the committee do not notify the commission that the committee has scheduled a meeting for the purpose of reviewing the proposed project within 14 working days after the date of the commission's submittal, the proposed project is not subject to the enumeration requirement under sub. (1) (a) and (b). If, within 14 working days after the date of the commission's submittal, the cochairpersons of the committee notify the commission that the committee has scheduled a meeting for the purpose of reviewing the proposed project, the proposed project remains subject to the enumeration requirement under sub. (1) (a) and (b) unless the committee approves the proposed project or modifies and approves the proposed project. Δ If the committee modifies and approves the proposed project, the proposed project is not subject to the enumeration requirement under sub. (1) (a) and (b) if the project is implemented as modified by the committee.

**Kuesel, Jeffery**

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**From:** Thornton, Scott - DOA [scott.thornton@wisconsin.gov]  
**Sent:** Monday, January 26, 2009 11:01 AM  
**To:** Schlueter, Ron; Kuesel, Jeffery  
**Cc:** Hanaman, Cathlene  
**Subject:** RE: LRB Draft: 09-1276/2 State building construction procedures

Additional changes to 1276 -

Here is another change:

Please remove the language added for the passive-review of JCF for projects that otherwise would need enumeration (Section 11. 20.924(3m).

Thanks,

Scott

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**From:** Thornton, Scott - DOA  
**Sent:** Sunday, January 25, 2009 4:40 PM  
**To:** Schlueter, Ron - LEGIS; Kuesel, Jeffery - LEGIS  
**Cc:** Hanaman, Cathlene - LEGIS  
**Subject:** RE: LRB Draft: 09-1276/2 State building construction procedures

I have an addition to make to the language on State building construction procedures:

Please add language to modify 20.867(2)(r) so that the governor does not authorize the release of funds after the building commission has approved. The current language requires approval at the Building Commission, which the governor chairs, and an additional approval from the governor directly. It would be more efficient if the secondary approval was not required.

I would suggest changing "The governor, upon approval....." to "The department of administration, upon approval....."

Thanks,

Scott

---

**From:** Schlueter, Ron [mailto:Ron.Schlueter@legis.wisconsin.gov]  
**Sent:** Friday, January 16, 2009 11:01 AM  
**To:** Thornton, Scott - DOA  
**Cc:** Hanaman, Cathlene - LEGIS; Beadles, Kathleen - DOA  
**Subject:** LRB Draft: 09-1276/2 State building construction procedures

*Following is the PDF version of draft 09-1276/2.*

01/27/2009



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-1276/2 3

JTK:bjk:rs

Wanted Tue 1/27

L. Stays

DOA:.....Thornton, BB0316 - State building construction procedures  
FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

SAV  
X-refv

Inserts

do not gen.

1 AN ACT ...; relating to: state building construction procedures.

*Analysis by the Legislative Reference Bureau*

**STATE GOVERNMENT**

**STATE BUILDING PROGRAM**

This bill makes various changes in state building construction procedures.

Currently, with certain exceptions, no state board, agency, officer, department, commission, or body corporate may enter into a construction contract for any state building, structure, or facility if the project involves an estimated cost of more than \$150,000, without review and approval of the project by the Building Commission. This bill changes this requirement to apply only to projects having an estimated cost of more than \$250,000.

Currently, with certain exceptions, the Building Commission is prohibited from authorizing the design, construction, repair, remodeling, or improvement of any state building, structure, or facility, or the acquisition of land for that purpose, for any project costing more than \$500,000, regardless of funding source, unless the project is enumerated by law in the Authorized State Building Program. This bill provides that this enumeration requirement does not apply to any proposed project that is funded entirely with federal funds or gifts, grants, or bequests, if the Building Commission submits the proposed project for review and approval of JCF. Under the bill, if JCF schedules a meeting to review a proposed project within 14 working days of its submittal, the project remains subject to the enumeration requirement unless JCF approves the project or modifies and approves the project. If JCF modifies and

approves the project, the project is not subject to the enumeration requirement if the Building Commission approves the project as modified.

Currently, with certain exceptions, contracts for construction work on state construction projects that cost more than \$40,000 must be let by contract to the lowest responsible bidder and must be preceded by public notice and a public bidding process. Wisconsin-based bidders are accorded a preference over bidders whose home governments grant them a preference in making governmental purchases. DOA must attempt to ensure that 5 percent of the total amount expended for construction work in each fiscal year is awarded to minority-owned businesses. With certain exceptions, DOA must take separate bids on each portion of the work that DOA designates. Contractors must be granted certain progress payments while a project is underway. This bill permits the secretary of the Building Commission to waive any of these requirements for any project the cost of which is less than \$5,000,000.

Currently, with certain exceptions, contracts for work to be performed on projects that require review and approval by the Building Commission must be let by bid preceded by public notice and must be awarded to the lowest responsible bidder, and are subject to minority-owned business participation goals and certain other requirements. This bill applies these requirements only to projects having an estimated cost of \$500,000 or more.

Currently, with certain exceptions, if a project has an estimated cost of more than \$40,000, contracts for work to be performed on the project must be let by sealed bid preceded by public notice which must contain specified information and the bids must be opened publicly and must include a bid guarantee. This bill retains the requirement for letting these contracts to the lowest responsible bidder, but applies other specific bidding requirements only to a project that has an estimated cost of more than \$100,000.

Currently, when DOA believes that it is in the best interests of the state to contract for certain proprietary articles or materials available from only one source, it may contract for the articles or materials without solicitation of bids or compliance with other statutory requirements after publishing a single notice of its intention to let the contract in the official state newspaper. This bill modifies this procedure to apply to specified proprietary articles or materials regardless of whether they are obtainable from only one source, but requires solicitation of bids when the procedure is used.

Currently, with certain exceptions, a bidder on a contract for a state project need not submit with its bid a list of the subcontractors to be used on the project, but DOA may require a list of the subcontractors to be submitted before the contract is awarded. This bill permits DOA to require each bidder on a state project to submit with its bid a list of its subcontractors to be used on the project.

Currently, with certain exceptions, if a contract for a state project or a change order to such a contract involves an expenditure of more than \$60,000, the contract is subject to the governor's approval, but the governor may delegate his or her authority to approve a contract or change order involving an expenditure of less than \$150,000 to the secretary of administration or the secretary's designee. This bill

permits the governor to delegate his or her authority to approve a contract or change order involving an expenditure of any amount to the secretary of administration or the secretary's designee.

Currently, with certain exceptions, DOA has the responsibility to take charge of and supervise all engineering and architectural services for state projects. This bill provides that, with certain exceptions, for the purpose of selection of an appropriate engineer or architect for each state project, DOA shall appoint one or more selection committees. The bill also requires that for each project having an estimated cost of \$5,000,000 or more, the selection committee shall interview each candidate for appointment as an engineer or architect, except that the secretary of administration or the secretary to the Building Commission may waive this requirement when he or she determines that is in the best interests of the state to do so.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 13.48 (2) (a) of the statutes is amended to read:

2           13.48 (2) (a) There is created a building commission consisting of the governor,  
3           who shall serve as chairperson, and 3 senators and 3 representatives to the assembly  
4           appointed as are the members of standing committees in their respective houses.

5           The 2 major political parties shall be represented in the membership from each  
6           house. One legislator from each house shall be a member of the state supported  
7           programs study and advisory committee created by s. 13.47. One citizen member  
8           shall be appointed by the governor to serve at the governor's pleasure. The secretary,

9           head of the engineering function, and ranking architect of the department of  
10          administration shall be nonvoting advisory members. The secretary of  
11          administration shall designate an employee of the department of administration to  
12          serve as secretary to the building commission. The building commission shall bear

13          a title beginning with the words "State of Wisconsin". The members shall be liable  
14          only for misconduct. Nonlegislator members of the building commission shall be



1 reimbursed for actual and necessary expenses, incurred as members of the building  
2 commission, from the appropriation under s. 20.505.

3 **SECTION 2.** 13.48 (10) (a) of the statutes is amended to read:

4 13.48 **(10)** (a) No state board, agency, officer, department, commission or body  
5 corporate may enter into a contract for the construction, reconstruction, remodeling  
6 of or addition to any building, structure, or facility, in connection with any building  
7 project which involves a cost in excess of ~~\$150,000~~ \$250,000 without completion of  
8 final plans and arrangement for supervision of construction and prior approval by  
9 the building commission. The building commission may not approve a contract for  
10 the construction, reconstruction, renovation or remodeling of or an addition to a state  
11 building as defined in s. 44.51 (2) unless it determines that s. 44.57 has been complied  
12 with or does not apply. This section applies to the department of transportation only  
13 in respect to buildings, structures and facilities to be used for administrative or  
14 operating functions, including buildings, land and equipment to be used for the  
15 motor vehicle emission inspection and maintenance program under s. 110.20.

16 **SECTION 3.** 13.48 (19m) of the statutes is created to read:

17 13.48 **(19m)** WAIVER OF CONSTRUCTION PROJECT CONTRACT REQUIREMENTS. The  
18 secretary of the building commission may waive compliance with any requirement  
19 under s. 16.855 for any project the estimated cost of which is less than \$5,000,000.

20 **SECTION 4.** 13.48 (29) of the statutes is amended to read:

21 13.48 **(29)** SMALL PROJECTS. Except as otherwise required under s. 16.855  
22 (10m), the building commission may prescribe simplified policies and procedures to  
23 be used in lieu of the procedures provided in s. 16.855 for any project ~~that does not~~  
24 ~~require prior approval of the building commission under sub. (10) (a)~~ having an  
25 estimated cost that does not exceed \$500,000.

1           **SECTION 5.** 16.85 (1) of the statutes is amended to read:

2           16.85 (1) To take charge of and supervise all engineering or architectural  
3 services or construction work as defined in s. 16.87 performed by, or for, the state, or  
4 any department, board, institution, commission or officer thereof, including  
5 nonprofit-sharing corporations organized for the purpose of assisting the state in the  
6 construction and acquisition of new buildings or improvements and additions to  
7 existing buildings as contemplated under ss. 13.488, 36.09 and 36.11, except the  
8 engineering, architectural and construction work of the department of  
9 transportation, the engineering service performed by the department of commerce,  
10 department of revenue, public service commission, department of health services  
11 and other departments, boards and commissions when the service is not related to  
12 the maintenance, and construction and planning of the physical properties of the  
13 state. For the purpose of selection of an appropriate engineer or architect for each  
14 construction project under the department's supervision, except an emergency  
15 project approved under s. 16.855 (16) (b) 2., the secretary shall appoint one or more  
16 selection committees. If the estimated cost of a project is \$5,000,000 or more, the  
17 selection committee shall interview each candidate for appointment as an engineer  
18 or architect for the project, except that the secretary of administration or the  
19 secretary to the building commission may waive this requirement when he or she  
20 determines that it is in the best interests of the state to do so. The department shall  
21 not authorize construction work for any state office facility in the city of Madison  
22 after May 11, 1990, unless the department first provides suitable space for a day care  
23 center primarily for use by children of state employees.

24           **SECTION 6.** 16.855 (2) (intro.) of the statutes is amended to read:

1           16.855 (2) (intro.) Except for projects authorized under s. 16.858, whenever the  
2           estimated construction cost of a project exceeds ~~\$40,000~~ \$100,000, or if less and in  
3           the best interest of the state, the department shall:

4           **SECTION 7.** 16.855 (10) of the statutes is amended to read:

5           16.855 (10) When the department believes that it is in the best interests of the  
6           state to contract for ~~certain~~ specified proprietary articles or materials ~~available from~~  
7           ~~only one source~~, it may contract for said articles or materials ~~without~~ upon  
8           solicitation of bids apart from the usual statutory procedure, after a publication of  
9           a class 1 notice, under ch. 985, in the official state newspaper.

10          **SECTION 8.** 16.855 (13) (a) of the statutes is amended to read:

11          16.855 (13) (a) ~~A~~ The department may require each person who submits a bid  
12          to provide a list of the subcontractors shall not be required to be submitted for work  
13          to be performed with the its bid. The department may also require the each prime  
14          contractor to submit in writing the names of prospective subcontractors for the  
15          department's approval before the award of a contract to the prime contractor.

16          **SECTION 9.** 16.855 (22) of the statutes is amended to read:

17          16.855 (22) The provisions of this section, except sub. (10m), do not apply to  
18          construction work for any project that does not require the prior approval of the  
19          building commission under s. 13.48 (10) (a) if the project is constructed in accordance  
20          with policies and procedures prescribed by the building commission under s. 13.48  
21          (29). If the estimated construction cost of any project is at least ~~\$40,000~~ \$100,000,  
22          and the building commission elects to utilize the procedures prescribed under s.  
23          13.48 (29) to construct the project, the department shall provide adequate public  
24          notice of the project and the procedures to be utilized to construct the project on a  
25          publicly accessible computer site.

1           **SECTION 10.** 16.87 (3) of the statutes is amended to read:

2           16.87 (3) Except as provided in sub. (4) and this subsection, a contract under  
3           sub. (2) is not valid or effectual for any purpose until it is endorsed in writing and  
4           approved by the secretary or the secretary's designated assistant and, if the contract  
5           involves an expenditure over \$60,000, approved by the governor. The governor may  
6           delegate the authority to approve any contract requiring his or her approval under  
7           this subsection ~~that involves an expenditure of less than \$150,000~~ to the secretary  
8           or the secretary's designee. Except as provided in sub. (4), no payment or  
9           compensation for work done under any contract involving \$2,500 or more, except a  
10          highway contract, may be made unless the written claim is audited and approved by  
11          the secretary or the secretary's designee. Any change order to a contract requiring  
12          approval under this subsection requires the prior approval by the secretary or the  
13          secretary's designated assistant and, if the change order involves an expenditure  
14          over \$60,000, the approval of the governor ~~or, if, unless~~ the governor delegates his  
15          or her authority to approve contracts under this subsection ~~and the change order~~  
16          ~~involves an expenditure of less than \$150,000, the approval of~~ to the secretary or the  
17          secretary's designee.

18           **SECTION 11.** 20.924 (3m) of the statutes is created to read:

19           20.924 (3m) Subsection (1) (a) and (b) does not apply to the design,  
20           construction, repair, remodeling, or improvement of any building, structure, or  
21           facility, or the acquisition of land for that purpose, if the project is funded entirely  
22           with federal funds or gifts, grants, or bequests, or a combination thereof, and the  
23           building commission submits the proposed project to the joint committee on finance  
24           for its review. If the cochairpersons of the committee do not notify the commission  
25           that the committee has scheduled a meeting for the purpose of reviewing the

1 proposed project within 14 working days after the date of the commission's  
2 submittal, the proposed project is not subject to the enumeration requirement under  
3 sub. (1) (a) and (b). If, within 14 working days after the date of the commission's  
4 submittal, the cochairpersons of the committee notify the commission that the  
5 committee has scheduled a meeting for the purpose of reviewing the proposed  
6 project, the proposed project remains subject to the enumeration requirement under  
7 sub. (1) (a) and (b) unless the committee approves the proposed project or modifies  
8 and approves the proposed project. If the committee modifies and approves the  
9 proposed project, the proposed project is not subject to the enumeration requirement  
10 under sub. (1) (a) and (b) if the project is implemented as modified by the committee.

11 **SECTION 9301. Initial applicability; Administration.**

12 (1) STATE BUILDING CONSTRUCTION PROCEDURES. The treatment of sections 13.48  
13 (19m), 16.85 (1), 16.855 (2) (intro.), (10), (13) (a), and (22), and 16.87 (3) of the statutes  
14 first applies with respect to contracts and change orders for services or construction  
15 work entered into on the effective date of this subsection.

16 **SECTION 9306. Initial applicability; Building Commission.**

17 (1) The treatment of section 13.48 (10) (a) and (29) of the statutes first applies  
18 with respect to contracts entered into on the effective date of this subsection.

19 (END)

FrS 7-17

Section #. 20.867 (2) (r) of the statutes is amended to read:

20.867 (2) (r) *Planning and design*. As a continuing appropriation from the building trust fund, any moneys allocated by the building commission for advance planning and all moneys received as reimbursement for building trust fund advances made for planning and design under this para-

graph. The ~~governor, upon the approval of the building commission,~~ shall authorize the release of funds from this appropriation for advance planning, preliminary studies and design <sup>and the secretary of administration</sup> and may transfer funds from this appropriation to other accounts within the building trust fund.

**History:** 1971 c. 125; 1973 c. 90 ss. 132 to 140g; 1975 c. 39; 1977 c. 29 ss. 352m to 353m, 1654 (8) (c), 1656 (3); 1977 c. 418; 1979 c. 34 ss. 629 to 631, 677w; 1979 c. 102 s. 4; 1979 c. 176, 177, 221; 1981 c. 1, 20, 93; 1981 c. 314 s. 146; 1981 c. 317; 1983 a. 27; 1983 a. 36 s. 96 (3); 1985 a. 6, 29; 1985 a. 332 s. 253; 1987 a. 27, 399; 1989 a. 31, 46, 219, 359; 1991 a. 32, 39, 269; 1993 a. 16; 1995 a. 27; 1999 a. 9, 167; 2001 a. 16; 2003 a. 33; 2005 a. 25; 2007 a. 20.

**2009-2010 DRAFTING INSERT**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1276/3ins  
JTK.....

INS 3A:

- ¶ Currently, the governor, upon approval of the Building Commission, must
- > authorize expenditure of moneys for planning and design of state building projects.△
  - > The governor may transfer moneys from the appropriation in the state building trust fund for planning and design to other appropriations in the building trust fund.△
  - > This bill directs the Building Commission to authorize expenditure of moneys for planning and design of state building projects.△
  - > The bill also permits the secretary of administration, instead of the governor, to transfer moneys from the appropriation in the building trust fund for planning and design of state building projects to other appropriations in the building trust fund.

**Kuesel, Jeffery**

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**From:** Thornton, Scott - DOA [scott.thornton@wisconsin.gov]  
**Sent:** Tuesday, January 27, 2009 3:23 PM  
**To:** Kuesel, Jeffery  
**Cc:** Hanaman, Cathlene  
**Subject:** RE: LRB Draft: 09-1276/3 State building construction procedures

Jeff -

In Section 11, 20.867(2)(r) please change the last sentence to "The building commission may transfer funds from this appropriation to other accounts within the building trust fund."

Thanks,

Scott

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**From:** Schlueter, Ron [mailto:Ron.Schlueter@legis.wisconsin.gov]  
**Sent:** Tuesday, January 27, 2009 3:09 PM  
**To:** Thornton, Scott - DOA  
**Cc:** Hanaman, Cathlene - LEGIS; Beadles, Kathleen - DOA  
**Subject:** LRB Draft: 09-1276/3 State building construction procedures

*Following is the PDF version of draft 09-1276/3.*